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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,985	11/21/2001	Stewart Douglas Hutcheson	01-40441-US	1724

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EXAMINER	
VAN HANDEL, MICHAEL P	
ART UNIT	**PAPER NUMBER**
2617	

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/989,985	HUTCHESON ET AL.	
	Examiner	Art Unit	
	Michael Van Handel	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-25 is/are rejected.

7)☒ Claim(s) 5, 15 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims **5, 15** are objected to because of the following informalities:

Referring to claim **5**, the phrase "said microprocessor" lacks antecedent basis. Specifically, claim 5 is dependent on claim 1, which fails to mention a microprocessor. In the Office Action below, the examiner assumes that appropriate changes will be made and addresses the claim as such.

Referring to claim **15**, line 9 states "to at least one of said one of said degrees of freedom." The examiner recommends that this phrase be changed to "to at least one of said one or more degrees of freedom." In the Office Action below, the examiner assumes that appropriate changes will be made and addresses the claim as such.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1, 2, 4, 6, 9, 13-16, 21-25** are rejected under 35 U.S.C. 102(b) as being anticipated by Comas et al.

Referring to claim **1**, Comas et al. discloses a system 100 (interactive wireless gaming system)(Fig. 1) for providing one or more interactive applications to one or more users via a wireless communications network, said system comprising:

one or more servers 31 cooperating with said network to substantially deliver one or more interactive applications to one or more wireless access devices 10A-D each corresponding to at least one of said users (col. 2, l. 43-47, 54-60);

wherein, after said one or more wireless access devices receive said substantially delivered one or more applications, upon request of one of said users, said one or more corresponding wireless access devices receives cached communication from said server to facilitate the one of said users accessing the one or more interactive applications using said corresponding wireless access device (col. 4, l. 32-62)(Fig. 3).

Referring to claims **2** and **16**, Comas et al. discloses the systems of claims 1 and 15, respectively, wherein said one or more interactive applications comprise graphics (col. 5, l. 53-55)(Fig. 6).

Referring to claim **4**, Comas et al. discloses the system of claim 1, wherein each said wireless access device comprises a microprocessor (col. 3, l. 67)(col. 4, l. 1-2)(Fig. 2).

Referring to claim **6**, Comas et al. discloses the system of claim 1, wherein each said wireless access device comprises at least one memory (col. 3, l. 36-38).

Referring to claim **9**, Comas et al. discloses the system of claim 1, wherein said one or more users comprises a plurality of simultaneous users (col. 2, l. 56-58).

Referring to claims **13** and **21**, Comas et al. discloses the systems of claims 1 and 15, respectively, wherein said application offers each of said users at least three degrees of freedom

(the examiner notes that the wireless gaming unit allows a user to move up, down, left, right, fire, or send)(Fig. 6).

Referring to claim **14**, Comas et al. discloses the system of claim 1, wherein said application is substantially stored on at least one of said wireless access devices (the examiner notes that game ROM 23 contains all of the menus required to select the readout of stored information as well as graphic representations of the plurality of moveable objects which are provided)(col. 4, l. 17-24).

Referring to claims **15**, **22**, and **23-25**, Comas et al. discloses a method/computer program product/wireless communications device for performing one or more interactive applications using a wireless communication network device, said method comprising:

substantially receiving software necessary to perform the one or more interactive application (53 in Fig. 5);

initiating the interactive application (58 in Fig. 5);

communicating changes in state of one or more degrees of freedom associated with said application to at least one server (col. 4, l. 46-49)(Fig. 3); and

receiving communications indicative of synchronization of said application and cached updates to at least one of said degrees of freedom (col. 4, l. 49-52).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims **3**, **5**, **7**, **8**, **10**, **17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Comas et al. in view of Eck et al.

Referring to claims **3** and **17**, Comas et al. discloses the systems of claims 1 and 15, respectively. Comas et al. does not disclose that the wireless access device comprises a handheld device. Eck et al. discloses a handheld wireless game machine (col. 3, l. 18-20)(col. 5, l. 8-15)(Figs. 1A-1C). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the wireless gaming unit 10 of Comas et al. to be handheld such as that taught by Eck et al. in order to provide a portable game machine (col. 1, l. 48-51). Referring to claim **17**, the limitation "substantially storing said software" is met in the citations of the rejection of claim 14 above.

Referring to claim **5**, Comas et al. discloses the system of claim 1, wherein the wireless access device comprises a microprocessor. Comas et al. does not disclose that the microprocessor utilizes a clock speed of greater than about 4 MHz. Eck et al. discloses a game machine that could be a Game Boy® Color product (col. 1, l. 33-35). The examiner further notes that Game Boy® Color had a processing speed of 8 MHz. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the microprocessor of Comas et al. to utilize a clock speed of 8 MHz such as that taught by Eck et al. in order to allow the device to smoothly operate games requiring more processing operations.

Referring to claim **7**, Comas et al. discloses the system of claim 1. Comas et al. does not disclose that each wireless access device comprises a color display. Eck et al. discloses a game machine with a color liquid crystal display (LCD)(col. 3, l. 21-24). It would have been obvious

to one of ordinary skill in the art at the time that the invention was made to modify the display of Comas et al. to be a color display such as that taught by Eck et al. in order to create a more appealing gaming environment.

Referring to claim **8**, Comas et al. discloses the system of claim 1. Comas et al. does not disclose that each wireless access device comprises a battery power source. Eck et al. discloses a game machine that is battery powered (col. 4, l. 39-40). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Comas et al. to include battery power such as that taught by Eck et al. in order to provide a portable game machine (Eck et al. col. 1, l. 48-49).

Referring to claim **10**, Comas et al. discloses the system of claim 9. Comas et al. does not disclose that the plurality of users comprises three or more users. Eck et al. discloses playing Multiple User Dungeon (MUD) games in which an open-ended number of players simultaneously exist in the same game world (col. 10, l. 1-7). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Comas et al. to allow an open-ended number of players to simultaneously exist in the same game world such as that taught by Eck et al. in order to provide a game machine with enhanced multi-player capabilities (col. 1, l. 48-49).

5. Claims **11**, **12**, **18-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Comas et al. in view of Thomas et al.

Referring to claims **11**, **12**, and **18-20**, Comas et al. discloses the systems of claims 1 and 15. Comas et al. does not disclose communicating at least a portion of the communications from

the network to at least one of the wireless access devices at a full frame rate, less than a full frame rate, or half frame rate. Thomas et al. discloses a broadcast transmitter 215 that transmits any desired portion of a gaming data to a handheld wireless device in code division multiple access (CDMA) format (col. 4, l. 15-29)(Fig. 2). The examiner further notes that it is inherent to CDMA transmission format to dynamically adjust between transmitting at a full frame rate or at a half frame rate depending on how much data needs to be transmitted. It would have been obvious to anyone of ordinary skill in the art at the time that the invention was made to modify the wireless transmission of Comas et al. to adhere to the CDMA transmission format such as that taught by Thomas et al. in order to provide an improved digital data transfer method for conducting a digital data transfer over a wireless network (Thomas et al. col. 2, l. 25-28).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571.272.5968. The examiner can normally be reached on Monday-Friday, 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571.272.7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Van Handel
Examiner
Art Unit 2617

MVH

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